

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7070

BILL NUMBER: HB 1182

NOTE PREPARED: Mar 30, 2005

BILL AMENDED: Mar 29, 2005

SUBJECT: Permanent extension of TIF and other tax matters.

FIRST AUTHOR: Rep. Leonard

FIRST SPONSOR: Sen. Dillon

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *TIFS*: This bill eliminates the December 31, 2005, deadline for creation of tax increment finance (TIF) allocation areas.

Abatement Deadline Repeal: It repeals the prohibition against approval of new tax abatements after December 31, 2005. It also repeals the limitation of tax abatements for new logistical distribution equipment and new information technology equipment to certain counties located along Interstate Highway 69.

New Market Tax Credit: The bill establishes the State New Markets Tax Credit for a taxpayer that qualifies for a federal new markets tax credit.

Library Levy: The bill allows a county library board to levy a property tax and distribute the tax to a private donation library or, if the board of trustees of the private donation library does not include at least one member or appointee of the library board and at least one appointee of the county fiscal body, determine whether to distribute the tax to the private donation library or use the tax for its own purposes.

Effective Date: (Amended) January 1, 2005; July 1, 2005.

Explanation of State Expenditures: (Revised) *New Market Tax Credit*: The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs in order to implement the New Markets Tax Credit (NMTC). The DOR's current level of resources should be sufficient to implement these changes. The administrative expenses incurred by the DOR should also be limited by the fact that the foremost eligibility requirement for this credit is that the taxpayer qualify for the federal NMTC

as determined by the Internal Revenue Service.

The bill also requires the Department of Tourism and Community Development (DTCD) to establish a program to certify qualified equity investments as eligible for this credit. The DTCD should be able to cover the increase in administrative expenses through the use of existing staff and resources.

(Revised) *Library Levy*: The state would pay Property Tax Replacement Credits and Homestead credits on any increase in the levy. Additional expenses could range from \$71,000 to \$152,000 depending on the levy adopted by the Vanderburgh County Library Board.

Explanation of State Revenues: *TIFs*: The state levies a small tax rate on property for State Fair and State Forestry. Any change in the amount granted for TIFs would change the amount received from this tax.

If there is an increase in investment because of the changes in this bill, the new property would, at some point, be placed on the tax rolls and the State Fair and State Forestry funds would receive increased revenues. If the investment would have been made with or without the TIF, then increased revenues to the State Fair and State Forestry funds would be foregone until the property is placed on the regular tax rolls.

(Revised) *Abatement Deadline Repeal*: The state levies a small tax rate on property for State Fair and State Forestry. Any change in the amount granted for abatements would change the amount received from this tax.

If there is an increase in investment because of the changes in this bill, the new property would, at some point, be placed on the tax rolls and the State Fair and State Forestry funds would receive increased revenues. If the investment would have been made with or without the abatement, then increased revenues to the State Fair and State Forestry funds would be foregone until the property is placed on the tax rolls.

New Market Tax Credit: This bill allows a taxpayer that qualifies for the federal NMTC, to receive a credit against the taxpayer's Indiana tax liability incurred under the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax. The bill limits the amount of credits that may be approved in any given state fiscal year. The maximum credit is \$870,000 for FY 2005 to FY 2007 and \$1,740,000 for FY 2008 to FY 2011.

The bill allows this credit for any qualified investment made on or after January 1, 2005. Therefore, collections from the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax could be affected in FY 2005 and beyond.

Background: In 2003-2004 there were two entities that were awarded allocations from the U.S. Department of the Treasury from the NMTC program. The total allocation for 2003-2004 was \$75 M. In 2002, there were two entities that qualified for the federal NMTC in Indiana. The allocation for these entities totaled \$6 M. These allocations represent the amount of investments that were designated as qualifying for the credit. Section 45D of the Internal Revenue Code limits the total amount of designated investments to \$2 billion nationwide in 2005, and \$3.5 billion nationwide in 2006 and 2007.

Qualifications for the Federal Credit: Section 45D of the Internal Revenue Code (IRC) allows the federal NMTC for a taxpayer who holds a qualified equity investment on the credit allowance date. A qualified equity investment means any equity investment in a qualified community development entity if:

- (A) the investment is a cash investment;
- (B) substantially used by the qualified community development entity to make qualified low-income community investments; and,
- (C) such investment is designated for the purposes of this code section by the qualified community development entity.

A qualified community development entity is defined as any domestic corporation or partnership with the primary mission of serving, or providing investment capital for, low-income communities or persons. The entity must maintain accountability to residents of these low-income communities through representation on any governing board of the entity. These qualified community development entities are also required under the IRC to be certified by the Treasury Secretary.

Formula for Determining the Credit: The bill sets forth the following formula for determining the amount of the credit:

- Step (1): Determine the amount of the qualified equity investment that is:
 - (A) held by the taxpayer on the credit allowance date in the taxable year; and
 - (B) certified as a certified equity investment by the DTCD.
- Step (2): Multiply the Step (1) amount by the applicable percentage for the credit allowance date.
- Step (3): Multiply the Step (2) amount by:
 - (A) the tax credit adjustment factor approved by the DTCD; or
 - (B) 0.85, if clause (A) does not apply.

The applicable percentages, as defined in the bill, equal 1% for the first three credit allowance dates and 2% for the remainder of the credit allowance dates.

The credit allowance date is the date on which the investment is initially made and the six annual anniversary dates immediately following the date of the initial investment. Therefore, this credit is allowed for seven years and the bill also allows the taxpayer to carry any excess credit forward for not more than three subsequent taxable years.

Revenue from the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is deposited in the General Fund and the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *TIFs:* Under current law, TIFs are granted for up to 50 years, and proceeds may be used to:

1. Pay debt service on obligations incurred for the financing of redevelopment in the allocation area;
2. Deposit funds into a debt service reserve to pay bonds;
3. Pay debt service on bonds used to pay for local improvements in or serving the allocation area;
4. Pay premiums on early bond redemptions;
5. Make lease payments;
6. Reimburse the local unit for the cost of making local improvements;
7. Reimburse the local unit for rent paid by the unit for a building or parking facility in or serving the allocation area;
8. Pay a PTRC-like credit to taxpayers in the allocation area;

9. Pay expenses incurred by the redevelopment commission for public improvements in or serving the allocation area; and
10. Reimburse public and private parties for expenses in training employees of certain industrial facilities.

Currently, no new TIFs can be created after December 31, 2005.

This bill eliminates the December 31, 2005, deadline for TIFs to be granted, effectively allowing these provisions to be granted any time in the future. If there is an increase in development because of this proposal, the assessed value of the new property would be included in taxing units' certified valuations when the TIF area expires. This could (1) eventually help spread the property tax burden and potentially reduce tax rates for most funds and (2) eventually increase revenues in cumulative and capital projects funds. However, if one assumes that the investment would be made with or without the TIF, then TIF allocation (or capture of the new assessed value) would delay the rate reductions and cumulative /capital projects fund revenue increases. In all cases, the granting of a TIF is a local decision.

The impact would depend on the number and dollar amount of new TIFs granted after CY 2005. The following chart shows the total TIFs for the last 10 years.

| Year | TIFs | |
|------|--------------|--------------|
| | Total | Increase |
| 1994 | \$23,116,487 | |
| 1995 | 27,555,225 | 4,438,738 |
| 1996 | 32,003,233 | 4,448,008 |
| 1997 | 31,998,229 | (5,004) |
| 1998 | 38,078,710 | 6,080,481 |
| 1999 | 40,528,120 | 2,449,410 |
| 2000 | 51,193,949 | 10,665,829 |
| 2001 | 29,191,747 | (22,002,202) |
| 2002 | 44,379,676 | 15,187,929 |
| 2003 | 29,950,248 | (14,429,428) |

(Revised) *Abatement Deadline Repeal*: Under current law, new manufacturing equipment and new research and development equipment may qualify for property tax abatements. The abatements are available for up to ten years. Currently, no new abatements can be granted after December 31, 2005.

This bill also would allow abatements for new “logistical distribution equipment” and new “information technology (IT) equipment” if installed after December 31, 2005, in an economic revitalization area of a county containing an interstate highway. Current law concerning these abatements applies only to equipment installed before January 1, 2006, and only for certain counties containing I-69.

Logistical distribution equipment would consist of racks, scanners, separators, conveyors, forklifts, moving equipment, packaging equipment, sorting and picking equipment, and software.

IT equipment would include equipment and software used in the fields of information processing, office automation, telecommunication facilities and networks, informatics, network administration, software development, and fiber optics.

This bill eliminates the December 31, 2005, deadline for abatements for new logistical distribution and IT equipment to be granted, effectively allowing these provisions to be granted any time in the future and in other counties. If there is an increase in development because of the continued use of these abatements, the new property would, at some point, be placed on the tax rolls. This could help spread the property tax burden and could possibly reduce some tax rates. However, if one assumes that the investment would be made with or without the abatement, an increase in abatements (ERAs) could also cause a delay in the shift of the property tax burden from all taxpayers to the owners of the new property until the property is placed on the tax rolls. In all cases, the granting of an abatement is a local decision.

The impact would depend on the number and dollar amount of new abatements that might be granted after CY 2005. The following chart shows the total abatements for the last 10 years for real and personal property.

| <u>Year</u> | <u>Real</u> | <u>Personal</u> | <u>Total</u> | <u>Increase</u> |
|-------------|--------------|-----------------|--------------|-----------------|
| 1994 | \$41,790,975 | \$54,579,109 | \$96,370,085 | |
| 1995 | 42,660,544 | 44,913,061 | 87,573,605 | (\$8,796,480) |
| 1996 | 39,409,092 | 66,760,681 | 106,169,772 | 18,596,168 |
| 1997 | 41,483,134 | 49,280,601 | 90,763,735 | (15,406,038) |
| 1998 | 43,312,527 | 43,532,906 | 86,845,433 | (3,918,302) |
| 1999 | 47,739,446 | 49,989,013 | 97,728,459 | 10,883,026 |
| 2000 | 50,877,703 | 70,955,197 | 121,832,900 | 24,104,441 |
| 2001 | 57,247,336 | 94,062,035 | 151,309,370 | 29,476,471 |
| 2002 | 65,621,529 | 102,594,325 | 168,215,854 | 16,906,484 |
| 2003 | 59,113,642 | 154,181,896 | 213,295,539 | 45,079,685 |

The average annual increase over the last five years has been \$25.3 M.

(Revised) *Library Levy*: The bill would allow the Vanderburgh County Library Board to levy a tax with a rate of not less than \$.0067 or more than \$.0167 per \$100 of assessed valuation. Currently, Evansville is responsible for levying the tax. The bill does not reduce the city of Evansville's maximum levy by the amount that had been levied for the library. The increase levy could range from \$305,00 to \$761,000 depending on the rate adopted by the board.

State Agencies Affected: Department of Natural Resources; Fair Board, Department of State Revenue; Department of Tourism and Community Development.

Local Agencies Affected: All.

Information Sources: Local Government Database, U.S. Department of the Treasury, <http://www.cdfifund.gov/programs/programs.asp?programID=5#2>.

Fiscal Analyst: Chuck Mayfield, 317-232-4825; Adam Brown, 317-232-9854.